REMARKS

The Office Action dated April 20, 2004 has been reviewed and carefully considered. Claims 1-6 remain pending, of which the independent claims are 1 and 6. No claim amendments are being made. Reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested.

Claims 1 and 4-6 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,768,268 to Kline et al. ("Kline") in view of U.S. Patent No. 6,331,976 to Sriram.

As to claim 1, item 4 of the Office Action (item 3 of the previous Office Action) acknowledges that Kline fails to disclose or suggest the latter portion of claim 1, indicated below by the underlining:

> a network element . . . including receiving means for receiving a wide-band **data sequence** that is composed of a starting synchronization (DOT1), a word synchronization (WS), a data word (REP1) and a fixed number of repeats of a further synchronization (DOT), a word synchronization (WS) and the data word (REP2-REP11) . . . evaluation means for recognizing that a transmission of a **data sequence** takes place when a starting synchronization (DOT1) has been recognized <u>or alternatively one of the further synchronizations (DOT), succeeded by a correct word synchronization (WS), has been recognized, and for evaluating data words (REP1-REP11) received each time subsequent to a recognized starting synchronization (DOT1) that is succeeded by a word synchronization (WS), or received subsequent to a recognized further synchronization (DOT) that is succeeded by a correct word synchronization (WS).</u>

Item 4 of the Office Action (item 3 of the previous Office Action) therefore further acknowledges, in effect, that Kline fails to disclose or suggest "evaluation means for <u>recognizing</u> that a transmission of a <u>data sequence</u> takes place when . . . <u>alternatively</u> one of the <u>further</u> synchronizations (DOT), succeeded by a correct

word synchronization (WS), <u>has been recognized</u> and for <u>evaluating</u> data words (REP1-REP11) <u>received</u> each time . . . <u>subsequent to a recognized further synchronization (DOT)</u> that is succeeded by a correct word synchronization (WS).

By contrast, such <u>alternative</u> recognition of said transmission of a data sequence, as recited in claim 1 of the present invention, does not occur in Kline. In fact, prior to recognizing a <u>starting</u> synchronization according to standard AMPS processing (Kline, col. 3, line 41: "AMPS"), Kline performs no such evaluation nor even such recognition of a further synchronization, since recognizing a <u>starting</u> synchronization is conventionally a prerequisite for further processing of the received data stream (instant specification, page 1, line 29 – page 2, line 2; page 2, lines 10-13).

Item 4 of the Office Action (item 3 of the previous Office Action) cites Sriram FIG. 3 and various Sriram passages that describe a bitstream having a preamble, used for synchronization (col. 5, line 20: "synchronize") and similar in configuration to an AMPS <u>starting</u> synchronization, the preamble being followed by a "synchronization word" that serves to mark or delimit the end of the preamble (col. 5, lines 43-45). The Office Action is therefore apparently suggesting that the Sriram "synchronization word" corresponds to the "word synchronization (WS)" that immediately follows the "starting synchronization (DOT1)" in claim 1.

Notably, however, claim 1 describes the <u>further</u> synchronization and distinguishes it from the Sriram word synchronization. In particular, claim 1 recites a "wide-band data sequence that is composed of a starting synchronization (DOT1), a <u>word synchronization</u> (WS), a data word (REP1) and a <u>fixed number of repeats of a further</u>

synchronization (DOT), a word synchronization (WS) and the data word (REP2-REP11)."

The "Response to Argument" section, item 1 of the Office Action firstly attempts to dismiss as lacking patentable weight the limitations of claim 1 of the present invention concerning recognition of "further synchronization." The rationale offered by the Office Action is that this claim limitation purportedly is part to a claim recitation of intended use, rather than a claim limitation reciting structure. The applicant traverses this proposition.

Claim 1 recites, "A network element . . . including receiving means . . . as well as evaluation means." The structure of the evaluation means is specified in claim 1 as "evaluation means for recognizing that a transmission of a data sequence takes place when a starting synchronization (DOT1) has been recognized or alternatively one of the further synchronizations (DOT), succeeded by a correct word synchronization (WS), has been recognized and for evaluating data words (REP1-REP11) received each time subsequent to a recognized starting synchronization (DOT1) that is succeeded by a word synchronization (WS), or received subsequent to a recognized further synchronization (DOT) that is succeeded by a correct word synchronization (WS)."

No such evaluation means with the structure recited in claim 1 of the present invention is disclosed or suggested in Kline, and nothing in the Sriram reference makes up for the shortcomings in Kline.

The "Response to Argument" section, item 1 of the Office Action secondly suggests that Sriram recognition of the "plurality of preamble prefix bits" (col.

2, line 36) "could potentially correspond to" the "further synchronizations" that the evaluation means recognizes alternatively in the present invention.

If, however, Sriram were to be applied to the further synchronizations in the standard AMPS processing of Kline, such would occur <u>only after</u> recognition of a starting synchronization, because, as stated above and as stated in the prior reply, because recognizing a <u>starting</u> synchronization is conventionally a prerequisite for further processing of the received data stream (instant specification, page 1, line 29 – page 2, line 2; page 2, lines 10-13). Consequently, such a purported embodiment would fail to disclose, suggest or feature:

> a wide-band **data sequence** that is composed of a starting synchronization (DOT1), a word synchronization (WS), a data word (REP1) and a fixed number of repeats of a further synchronization (DOT), a word synchronization (WS) and the data word (REP2-REP11) . . . evaluation means for recognizing that a transmission of a **data sequence** takes place when a starting synchronization (DOT1) has been recognized <u>or</u> <u>alternatively one of the further synchronizations (DOT), succeeded by a</u> <u>correct word synchronization (WS), has been recognized, and for evaluating</u> <u>data words (REP1-REP11) received each time subsequent to a recognized</u> <u>starting synchronization (DOT1) that is succeeded by a word</u> <u>synchronization (WS), or received subsequent to a recognized further</u> <u>synchronization (DOT) that is succeeded by a correct word synchronization</u> <u>(WS).</u>

There is no disclosure or suggestion in the cited references, or in view of what was known to those of ordinary skill in the art, to create the alternative scheme recited in claim 1 of the present invention.

The notion that Sriram suggests modification of Kline to somehow feature the alternative scheme recited in claim 1 of the present invention amounts to no less than

the application of impermissible hindsight by an Examiner who has read the disclosure of

the instant application.

The motivation cited in item 4 of the Office Action (item 3 of the previous

Office Action) is "in order to properly demodulate a signal, as taught by Sriram." The

"Response to Arguments" section of the Office Action explains that the intended meaning

was "to properly decode a signal," but this still fails to offer even the slightest hint as to

what, besides improper hindsight, would have motivated modifying Kline conventional

AMPS processing to feature the alternative scheme recited in claim 1 of the present

invention.

For at least all of the above reasons, neither reference, alone or in

combination, anticipates or renders obvious the invention as recited in claim 1.

Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 6 is a method claim corresponding to apparatus claim 1 and is

likewise deemed to be patentable over the applied prior art of record.

Claims 2 and 3 stand rejected under 35 U.S.C. 103(a) as unpatentable over

Kline in view of Sriram and U.S. Patent No. 4,905,234 to Childress et al. ("Childress").

Claims 2 and 3 depend from claim 1. Childress deals with signaling

formats but cannot compensate for the deficiencies in Kline and Sriram. Accordingly,

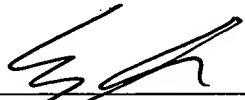neither claim 2 nor claim 3 is rendered obvious by Kline/Sriram/Childress.

As to the other rejected claims, each depends from a base claim that has

been shown to be patentable, and is likewise deemed to be patentable at least due to its

dependency.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Aaron Waxler
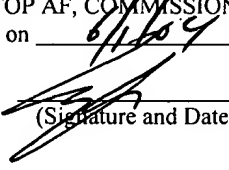Registration No. 48,027

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